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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150903814-5814-01]

RIN 0648-XE171

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2016-2018 Summer Flounder, Scup, and Black Sea Bass Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the 2016-2018 summer flounder and scup fisheries and for the 2016-2017 black sea bass fishery. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan require us to publish specifications for the upcoming fishing year for each of these species and to provide an opportunity for public comment. This action is intended to propose for implementation specifications necessary to constrain harvest for these three species within scientifically sound recommendations to prevent overfishing.

DATES: Comments must be received on or before [*insert date 15 days after the date of publication in the FEDERAL REGISTER*].

ADDRESSES: An environmental assessment (EA) was prepared for the specifications and describes the proposed action and other considered alternatives, and provides an analysis of the impacts of the proposed measures and alternatives. Copies of the Specifications Document,

including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.mafmc.org>.

You may submit comments on this document, identified by NOAA-NMFS-2015-0117, by either of the following methods:

ELECTRONIC SUBMISSION: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0117,
2. Click the “Comment Now!” icon, complete the required fields
3. Enter or attach your comments.

- OR -

MAIL: Submit written comments to John Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA, 01950. Mark the outside of the envelope, “Comments on the Proposed Rule for FSB Specifications.”

INSTRUCTIONS: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978)

281-9218.

SUPPLEMENTARY INFORMATION:

General Specification Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission cooperatively manage the summer flounder, scup, and black sea bass fisheries. Fishery specifications in these fisheries include various catch and landing subdivisions, such as the commercial and recreational sector annual catch limits (ACLs), annual catch targets (ACTs), and sector-specific landing limits (i.e., the commercial fishery quota and recreational harvest limit) for the upcoming fishing year. Rulemaking for measures used to manage the recreational fisheries (minimum fish sizes, open seasons, and bag limits) for these three species occurs separately and typically takes place in the spring of each year.

The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and its implementing regulations establish the Council's process for establishing specifications. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35° 13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border. The FMP also contains formulas to divide the specification catch limits into commercial and recreational fishery allocations, state-by-state quotas, and quota periods, depending on the species in question.

The Council's Scientific and Statistical Committee (SSC) met July 22-23, 2015, to recommend acceptable biological catches (ABC) for the 2016-2018 these fisheries. The Summer Flounder, Scup, and Black Sea Bass Monitoring Committees met July 23-24, 2015, to discuss

specification-related recommendations for the three fisheries, to recommend offsets from the ACL to account for management uncertainty, and to discuss commercial management measure recommendations, as appropriate. Note, because of a planned black sea bass benchmark stock assessment scheduled for late 2016, the SSC only recommended interim ABCs for 2016 and 2017. More details on the SSC’s discussions are provided in the fishery-specific sections below.

Following the SSC and Monitoring Committee meetings, the Council and the Commission’s Summer Flounder, Scup, and Black Sea Bass Management Board met jointly on August 12, 2015, to consider the recommendations of the SSC, the three Monitoring Committees, and public comments, and to make their specification recommendations. The SSC and the Council met subsequently to reconsider the black sea bass recommendations. More complete details on the SSC, Monitoring Committee, and Council meeting deliberations can be found on the Council’s website (www.mafmc.org).

While the Board action was finalized at the August meeting, the Council’s recommendations must be reviewed by NMFS to ensure that they comply with the FMP and applicable law. NMFS also must conduct notice-and-comment rulemaking to propose and implement the final specifications.

Table 1. Summary of the Proposed 2016-2018 Summer Flounder and Scup Specifications and 2016-2017 Black Sea Bass Specifications.

		Summer Flounder			Scup			Black Sea Bass
		2016	2017	2018	2016	2017	2018	2016-2017
Overfishing Limit (OFL)	million lb	18.06	19.82	22.40	35.80	32.09	29.68	n/a
	mt	8,194	8,991	10,159	16,238	14,556	13,464	n/a
ABC	million lb	16.26	15.86	15.68	31.11	28.40	27.05	6.67
	mt	7,375	7,193	7,111	14,110	12,881	12,270	3,024
Commercial ACL/ACT	million lb	9.42	9.19	9.10	24.26	22.15	21.10	3.15
	mt	4,275	4,168	4,127	11,006	10,047	9,571	1,428
Recreational	million lb	6.83	6.67	6.56	6.84	6.25	5.95	3.52

ACL/ACT	mt	3,100	3,025	2,984	3,104	2,834	2,699	1,597
Commercial Quota	million lb	8.12	7.91	7.89	20.47	18.38	17.34	2.71
	mt	3,685	3,590	3,581	9,284	8,337	7,866	1,230
Recreational Harvest Limit	million lb	5.42	5.28	5.26	6.09	5.50	5.21	2.82
	mt	2,457	2,393	2,387	2,763	2,495	2,361	1,280

Consistent with the summer flounder, scup, and black sea bass regulations, the sum of the recreational and commercial sector ACLs are equal to the ABCs. ACL is an expression of total catch (i.e., landings and dead discarded fish). To derive the ACLs, the sum of the sector-specific projected discards are removed from the ABCs to derive the landing allowances. The resulting landing allowance is apportioned to the commercial and recreational sectors by applying the FMP allocation criteria: (1) Summer flounder—60 percent to the commercial fishery and 40 percent to the recreational fishery; (2) scup—78 percent to the commercial fishery and 22 percent to the recreational fishery; and (3) black sea bass—49 percent to the commercial fishery and 51 percent to the recreational fishery. Using this method ensures that each sector is accountable for its respective discards, rather than simply apportioning the ABC by the allocation percentages to derive the sector ACLs. Although the derived ACLs are not split exactly according to the FMP-specified allocations, the landing portions of the ACLs preserve the appropriate allocation split, consistent with the FMP. This process results in the commercial and recreational ACLs, commercial quotas, and recreational harvest limits shown in Table 1. The specific discard values projected for each fishery and sector are described in more detail below.

Proposed Specifications

Summer Flounder

This rulemaking proposes the Council's ABC recommendation and the commercial and

recreational catch limits associated with that ABC for fishing years 2016-2018.

The 2015 stock assessment update used to establish these specifications was based on the approved model from the 2013 benchmark assessment, updated to include data through 2014 (<http://www.nefsc.noaa.gov/publications/crd/crd1513/crd1513.pdf>). The assessment update indicates that summer flounder are not overfished, but that overfishing did occur in 2014. The stock status change was primarily due to four years of below average recruitment, leading to fewer summer flounder being available to the fishery than had previously been predicted.

The OFL for 2016 was estimated to be 18.06 million lb (8,194 mt), a reduction of 33 percent from 2015. At the request of the Council, the SSC deviated from the standard Risk Policy and ABC Control Rule and recommended ABCs that “phase in” the required reduction in order to minimize the economic impact that such a reduction in a single year’s catch limits would cause. Using the standard ABC Control Rule, the 2016 ABC would have been 30 percent below the OFL to account for scientific uncertainty. As proposed, this 30-percent buffer would be phased-in over the next three years by increasing the buffer by a third in each year. That is, a 10-percent buffer in 2016, a 20-percent buffer in 2017, and, finally, the full 30-percent buffer in 2018. Each of the ABCs derived from this approach have a less than 50-percent probability of resulting in overfishing. This results in relatively stable specifications because the current projections indicate a modest increase in the OFL over these three years. The SSC has requested a stock assessment update for next summer and intends to evaluate the available information to determine if the proposed ABCs remain appropriate.

The Summer Flounder Monitoring Committee met to discuss the SSC’s recommendations and to determine whether additional reductions in the catch limits were necessary to account for management uncertainty. Because the recreational fishery in recent

years has not substantially exceeded the recreational harvest limit, discards in the commercial fishery have been relatively low, and the commercial landings monitoring and fishery closure system is timely, the Summer Flounder Monitoring Committee determined that no additional reductions to account for management uncertainty were necessary. Therefore, it was recommended that the ACT (both commercial and recreational) should be set equal to ACL for all three years. Removing the estimated discards results in the commercial quotas and recreational harvest limits shown below in Table 2.

Table 2. Proposed 2016-2018 Summer Flounder Specifications and Calculations.

	2015 (current)		2016		2017		2018	
	million lb	mt	million lb	mt	million lb	mt	million lb	mt
OFL	27.06	12,275	18.06	8,194	19.82	8,991	22.4	10,159
ABC	22.77	10,329	16.26	7,375	15.86	7,193	15.7	7,111
ABC Landings Portion	18.45	8,368	13.54	6,142	13.19	5,983	13.2	5,968
ABC Discards Portion	4.32	1,961	2.72	1,233	2.67	1,210	2.52	1,143
Commercial ACL	13.34	6,049	9.43	4,275	9.19	4,168	9.1	4,127
Commercial ACT	13.34	6,049	9.43	4,275	9.19	4,168	9.1	4,127
Projected Commercial Discards	2.27	1,028	1.30	590	1.28	579	1.21	547
Commercial Quota	11.07	5,021	8.12	3,685	7.91	3,590	7.89	3,581
Recreational ACL	9.44	4,280	6.84	3,100	6.67	3,025	6.58	2,984
Recreational ACT	9.44	4,280	6.84	3,100	6.67	3,025	6.58	2,984
Projected Recreational Discards	2.06	933	1.42	643	1.39	631	1.32	596
Recreational Harvest Limit	7.38	3,347	5.42	2,457	5.28	2,393	5.26	2,387

The Council and Board considered the SSC and Summer Flounder Monitoring Committee recommendations before concurring with the catch recommendations specified in Table 2. Fishing under these catch limits for 2016 through 2018 is not expected to compromise the summer flounder stock, nor will fishing at this level present a unacceptably high likelihood of overfishing. The Council recommended all other commercial management measures remain status quo.

Table 3 presents the proposed state allocations for 2016-2018 using the commercial state quota allocations described in the FMP. Any commercial quota adjustments to account for overages will be published in the **Federal Register** prior to the start of the respective fishing year. The final rule for this action will include any necessary quota overage reductions for fishing year 2016.

Table 3. 2016-2018 Proposed Initial Summer Flounder State Commercial Quotas.

	FMP Percent Share	2016 Initial Quota		2017 Initial Quota		2018 Initial Quota	
State		lb	kg	lb	kg	lb	kg
ME	0.04756	3,864	1,753	3,764	1,707	3,755	1,703
NH	0.00046	37	17	36	17	36	16
MA	6.82046	554,097	251,334	539,812	244,854	538,459	244,240
RI	15.68298	1,274,091	577,917	1,241,244	563,019	1,238,133	561,607
CT	2.25708	183,366	83,173	178,639	81,029	178,191	80,826
NY	7.64699	621,244	281,791	605,228	274,527	603,711	273,838
NJ	16.72499	1,358,744	616,315	1,323,715	600,427	1,320,397	598,921
DE	0.01779	1,445	656	1,408	639	1,404	637
MD	2.0391	165,657	75,141	161,387	73,204	160,982	73,020
VA	21.31676	1,731,781	785,522	1,687,135	765,271	1,682,906	763,353
NC	27.44584	2,229,709	1,011,378	2,172,227	985,305	2,166,781	982,835
Total	100	8,124,035	3,684,997	7,914,596	3,589,997	7,894,754	3,580,997
Note: Kilograms are as converted from pounds and do not sum to the converted total due to rounding. Rounding of quotas results in totals slightly exceeding 100 percent.							

Scup

This rule proposes the Council's ABC recommendation and the commercial and recreational catch limits associated with that ABC for fishing years 2016-2018.

The SSC reviewed the results of the 2015 scup benchmark stock assessment and determined that an update to the existing control rule was warranted. The SSC determined that a lower coefficient of variation, or CV, to estimate scientific uncertainty was acceptable for the

scup stock assessment instead of the default 100-percent CV. The SSC's ABC recommendations are based on a 60-percent CV from the OFL and are, therefore, higher than they would have otherwise been. In addition, the 2016 ABC is based on an assumption that only 75 percent of the 2015 ABC would be harvested, consistent with recent fishery performance. The stock assessment upon which the specifications are based indicates that scup biomass is currently lower than in recent years, but still more than double the biomass target. Therefore, the proposed catch limits are lower than the specifications for fishing year 2015, but are still relatively high compared to recent landings.

The Scup Monitoring Committee met to discuss the SSC's recommendations and to determine whether additional reductions in the catch limits were necessary to account for management uncertainty. Because both the recreational and commercial fisheries have not reached their respective landings limits because of the very high quotas, and the landings monitoring and fishery closure system is timely, the Monitoring Committee determined that no additional reductions to account for management uncertainty were necessary. Therefore, it was recommended that the ACTs (both commercial and recreational) should be set equal to the respective ACLs for fishing years 2016-2018. The Council and Board considered the SSC and Scup Monitoring Committee recommendations before concurring with the catch recommendations specified in Table 2. Fishing under these catch limits for 2016 through 2018 is not expected to compromise the scup stock, nor will fishing at this level present an unacceptably high likelihood of overfishing. The Council recommended all other commercial management measures remain status quo. After deducting the appropriate sector-specific discards, the 2016-2018 commercial quotas and recreational harvest limits would be as described below in Table 4.

Table 4. Proposed Scup Specifications.

	2015 (current)		2016		2017		2018	
	mil lb	mt	mil lb	mt	mil lb	mt	mil lb	mt
OFL	47.8	21,680	35.8	16,238	32.09	14,556	29.7	13,464
ABC	33.77	15,320	31.11	14,110	28.4	12,881	27.1	12,270
ABC Landings Portion	28.03	12,716	26.56	12,047	23.88	10,832	22.6	10,227
ABC Discards Portion	5.74	2,604	4.55	2,063	4.52	2,049	4.5	2,043
Commercial ACL	26.34	11,950	24.26	11,006	22.15	10,047	21.1	9,571
Commercial ACT	26.34	11,950	24.26	11,006	22.15	10,047	21.1	9,571
Projected Commercial Discards	5.11	2,318	3.8	1,721	3.77	1,710	3.76	1,705
Commercial Quota	21.23	9,632	20.47	9,284	18.38	8,337	17.3	7,866
Recreational ACL	7.92	3,592	6.84	3,104	6.25	2,834	5.95	2,699
Recreational ACT	7.92	3,592	6.84	3,104	6.25	2,834	5.95	2,699
Projected Recreational Discards	0.67	304	0.75	342	0.75	339	0.75	338
Recreational Harvest Limit	6.8	3,288	6.09	2,763	5.5	2,495	5.21	2,361

The scup commercial quota is divided into three commercial fishery quota periods:

Winter I; Summer; and Winter II. This rule proposes commercial scup quotas for these three periods for 2016-2018, consistent with the allocation structure of the FMP. If there is a commercial overage applicable to the 2016 scup commercial quota, notice of that overage will be included in the final rule for this action. Commercial overages applicable to fishing years 2017 and 2018 will be provided in a **Federal Register** notice published prior to the start of the fishing year. The period quotas are detailed in Table 5. Unused Winter I quota may be carried over for use in the Winter II period.

Table 5. Proposed Commercial Scup Quota Allocations for 2016-2018 by Quota Period.

		2016 Initial Quota		2017 Initial Quota		2018 Initial Quota	
Quota Period	Percent Share	lb	mt	lb	mt	lb	mt
Winter I	45.11	9,232,987	4,188	8,291,190	3,761	7,822,778	3,548
Summer	38.95	7,972,176	3,616	7,158,986	3,247	6,754,538	3,064
Winter II	15.94	3,262,554	1,480	2,929,762	1,329	2,764,245	1,254
Total	100.0	20,467,716	9,284	18,379,939	8,337	17,341,562	7,866

Note: Metric tons are as converted from pounds and may not necessarily total due to rounding.

The Winter I possession limit will be reduced to 1,000 lb (454 kg) when 80 percent of that period's allocation has been landed. The Winter II possession limit may be adjusted (in association with a transfer of unused Winter I quota to the Winter II period) via notification in the **Federal Register**.

Table 6. Initial Commercial Scup Possession Limits by Quota Period.

Quota Period	Percent Share	Federal Possession Limits (Per Trip)	
		lb	kg
Winter I	45.11	50,000	22,680
Summer	38.95	N/A	N/A
Winter II	15.94	12,000	5,443
Total	100.0	N/A	N/A

Black Sea Bass

This rule proposes the Council's revised ABC recommendation and the commercial and recreational catch limits associated with that ABC for fishing years 2016 and 2017.

Black sea bass remains a data-poor stock, with relatively high uncertainty for the purposes of calculating ABC. The SSC rejected the OFL estimate provided from the 2011 stock assessment, stating that it was highly uncertain and not sufficiently reliable to use as the basis of management advice. In 2012, the SSC recommended an ABC of 4.50 million lb (2,041 mt). The Council tasked the SSC to revisit this recommendation in January 2013. The SSC revised its recommendation for fishing years 2013 and 2014 and recommended an ABC of 5.50 million lb (2,494 mt). This ABC and the corresponding specifications were implemented in June 2013 and were carried forward into fishing year 2015. At the July 2015 meeting, the SSC made an interim recommendation that would continue this ABC into fishing years 2016-2017. No recommendation was made for 2018. A benchmark stock assessment for black sea bass is

scheduled to occur in 2016 and the Council and the SSC will use this information to recommend a 2018 ABC.

A very large year class from 2011 has been prevalent throughout the fishery for the past several years, making it difficult to avoid black sea bass and leading to increasingly restrictive management measures. The SSC reviewed additional information at its September 16, 2015, meeting on setting catch recommendations for data poor stocks with no reliable overfishing limit estimate available (i.e., ABC Control Rule Level IV). This is intended to replace the default constant catch approach the SSC has used for data-poor stocks. The SSC determined that the average of four of the Data-Limited Modeling Approaches that were evaluated was a more scientifically robust approach to setting catch advice. This approach resulted in the SSC revising its black sea bass ABC recommendation for 2016 and 2017 to 6.67 million lb (3,024 mt). The Council discussed the revised SSC recommendation at its October 7, 2015, meeting, notifying NMFS in a letter dated October 14, 2015. The Commission's Black Sea Bass Board will review this recommendation in November.

The Black Sea Bass Monitoring Committee met in July 2015 to discuss the SSC's interim recommendation and to determine if additional reductions in the catch limits were necessary to account for management uncertainty. The Monitoring Committee determined that no additional reductions to account for management uncertainty were necessary because the commercial management program is timely, and management uncertainty will be more explicitly accounted for in the recreational management measures process. Therefore, it was recommended that the ACTs (both commercial and recreational) should be set equal to their respective ACL for fishing years 2016 and 2017. The Monitoring Committee discussed the revised ABC recommendation via email prior to the Council's discussion. The Monitoring Committee determined that the

rationale for the prior recommendation was also applicable to the revised specifications. As such, the Council is recommending, and this rule proposes, that the ACT be set equal to the ACL for both sectors in both years.

The Council recommended that all other commercial management measures remain at the status quo. This rule proposes the revised specifications shown in Table 7, as recommended by the Council and consistent with the SSC's recommendations. Preliminary data indicate that a commercial quota overage occurred in 2014. There may also have been more discards than projected, resulting in an additional overage of the ACL, potentially triggering an additional accountability measure. Any overage of the ACL beyond the landings overage will be deducted from the 2016 ACT. The 2014 commercial quota overage amount, in pounds, will be deducted from the 2016 quota when the final accounting is completed. Commercial overages applicable to fishing year 2017 will be provided in a **Federal Register** notice prior to the start of the fishing year.

Table 7. Proposed Black Sea Bass 2016-2017 Specifications.

	2015 (current)		2016 and 2017	
	million lb	mt	million lb	mt
ABC	5.50	2,494	6.67	3,024
ABC Landings Portion	4.56	2,070	5.53	2,510
ABC Discards Portion	0.93	424	1.13	514
Commercial ACL	2.60	1,180	3.15	1,428
Commercial ACT	2.58	1,170	3.15	1,428
Projected Commercial Discards	0.37	166	0.44	198
Commercial Quota	2.21	1,004	2.71	1,230
Recreational ACL	2.90	1,314	3.52	1,597
Recreational ACT	2.90	1,314	3.52	1,597
Projected Recreational Discards	0.57	258	0.70	317
Recreational Harvest Limit	2.33	1,056	2.82	1,280
Note: An accountability measure was implemented for fishing year 2015 because of a prior year's commercial fishery overage.				

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared by the Council, as required by section 603 of the Regulatory Flexibility Act (RFA), to examine the impacts of these proposed specifications on small business entities, if adopted. A description of the specifications, why they are being considered, and the legal basis for proposing and implementing specifications for the summer flounder, scup, and black sea bass fisheries are contained in the preamble to this proposed rule. A copy of the detailed RFA analysis is available from NMFS or the Council (see **ADDRESSES**). The Council's analysis made use of quantitative approaches when possible. Where quantitative data on revenues or other business-related metrics that would provide insight to potential impacts were not available to inform the analyses, qualitative analyses were conducted. A summary of the 2016-2018 specifications RFA analysis follows.

Description of the Reasons Why Action by the Agency is Being Considered, and a Statement of the Objectives of, and Legal Basis for, this Proposed Rule

This action proposes management measures, including annual catch limits, for the summer flounder, scup, and black sea bass fisheries in order to prevent overfishing and achieve optimum yield in the fishery. A complete description of the action, why it is being considered,

and the legal basis for this action are contained in the specifications document, and elsewhere in the preamble to this proposed rule, and are not repeated here.

Description and Estimate of the Number of Small Entities to which the Proposed Rule Would Apply

The Small Business Administration defines a small business as one that is independently owned and operated; not dominant in its field of operation; has annual receipts that do not exceed \$20.5 million in the case of commercial finfish harvesting entities (NAIC 114111), \$5.5 million in the case of commercial shellfish harvesting entities (NAIC 114112), \$7.5 million in the case of for-hire fishing entities (NAIC 114119); or has fewer than 500 employees in the case of fish processors or 100 employees in the case of fish dealers. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

This proposed rule affects commercial and recreational fish harvesting entities engaged in the summer flounder, scup, and black sea bass fisheries. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the RFA analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are

categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate ownership entity for the purpose of this analysis.

In preparation for this action, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership data set used for this analysis is based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014. In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. Similarly, a business is defined as being primarily engaged in fishing for shellfish if it obtains greater than 50 percent of its gross sales from sales of shellfish.

A description of the specific permits that are likely to be impacted by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

The ownership database shows that for the 2012-2014 period, 485 affiliate firms held a summer flounder commercial permit and 547 affiliate firms held a summer flounder party/charter permit; 446 affiliate firms held a scup commercial permit and 491 affiliate firms held a scup party/charter permit; and 491 affiliate firms held a black sea bass commercial permit and 533 affiliate firms held a black sea bass party/charter permit. However, not all of those affiliate firms are active participants in the fishery. According to the ownership database, 960 affiliate firms

landed summer flounder, scup, and/or black sea bass during the 2012-2014 period, with 952 of those business affiliates categorized as small business and 8 categorized as large business.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of this Proposed Rule

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The Council analyzed four sets of combined catch limit alternatives for each of the fishing years 2016-2018 for the summer flounder, scup, and black sea bass fisheries. The 2018 fishing year analysis is based on summer flounder and scup only because there was no recommendation for black sea bass. The alternatives were as follows:

- Alternative 1 was the Council’s originally preferred alternative, and was consistent with the SSC’s interim advice;
- Alternative 2 is the status quo and would maintain the current specifications in effect;
- Alternative 3 is an alternative provided for analytical purposes as the “most restrictive” set of landings limits, based on the lowest landings limits in the time series for each stock; and

- Alternative 4 is the counter-point to Alternative 3 as the “least restrictive” or highest landings limits in the time series.

This analysis was completed using the Council’s interim recommendation for the black sea bass specifications. The specifications proposed in this action are different than Alternative 1, as described in the Council’s specifications document and IRFA. The proposed specifications represent an increase in the 2016 and 2017 commercial quotas to 2.71 million lb (1,230 mt) and recreational harvest limits of 2.82 million lb (1,280 mt). These are 21 percent higher than the previously preferred alternative (Alternative 1), and 33 percent lower than the “least restrictive” alternative (Alternative 4). The impacts from the proposed catch limits fall within the range that has been analyzed and are more fully described here. The discussion below is based on the conclusions of the RFA analyses in the draft specifications document provided by the Council, modified to account for the revised black sea bass recommendation.

Table 8. Summary of Landings Limits by Alternative.

Year	Alternative	Species	Commercial Quota	Recreational Harvest Limit
2016	Proposed	Summer Flounder	8.12	5.42
		Scup	20.47	6.09
		Black Sea Bass	2.71	2.82
	Alternative 1 (Preferred)	Summer Flounder	8.12	5.42
		Scup	20.47	6.09
		Black Sea Bass	2.24	2.33
	Alternative 2 (Status quo)	Summer Flounder	11.07	7.38
		Scup	21.23	6.80
		Black Sea Bass	2.21	2.33
	Alternative 3 (Most Restrictive)	Summer Flounder	6.30	4.20
		Scup	2.53	1.24
		Black Sea Bass	1.13	1.17
	Alternative 4 (Least Restrictive)	Summer Flounder	18.18	12.12
		Scup	28.35	8.57
		Black Sea Bass	4.02	4.18

2017	Proposed	Summer Flounder	7.91	5.28
		Scup	18.38	5.50
		Black Sea Bass	2.71	2.82
	Alternative 1 (Preferred)	Summer Flounder	7.91	5.28
		Scup	18.38	5.50
		Black Sea Bass	2.24	2.33
	Alternative 2 (Status quo)	Summer Flounder	11.07	7.38
		Scup	21.23	6.80
		Black Sea Bass	2.21	2.33
	Alternative 3 (Most Restrictive)	Summer Flounder	6.30	4.20
		Scup	2.53	1.24
		Black Sea Bass	1.13	1.17
2018	Alternative 1 (Preferred; Proposed)	Summer Flounder	18.18	12.12
		Scup	28.35	8.57
	Alternative 2 (Status quo)	Summer Flounder	4.02	4.18
		Scup		
	Alternative 3 (Most Restrictive)	Summer Flounder	7.89	5.26
		Scup	17.34	5.21
	Alternative 4 (Least Restrictive)	Summer Flounder	11.07	7.38
		Scup	21.23	6.80
	Alternative 3 (Most Restrictive)	Summer Flounder	6.30	4.20
		Scup	2.53	1.24
	Alternative 4 (Least Restrictive)	Summer Flounder	18.18	12.12
		Scup	28.35	8.57

Commercial Fishery Impacts

It is expected that varying levels of negative economic impacts on the three fisheries may occur from the proposed specifications. The summer flounder fishery is expected to experience the largest negative impact, because of the 20-percent decrease in available quota in 2016. This represents an approximately \$8.1-million decrease in ex-vessel summer flounder revenue across the fleet. However, some of this impact may be offset for some firms if the price of summer flounder increases because of lower availability. This decrease is not distributed uniformly across each participating vessel because each business is not equally dependent on summer

flounder. The Council's analysis shows that 228 out of the 952 small business entities are likely to be faced with revenue reductions of 5 percent or more because of Alternative 1. Of these, 40 percent had gross sales of \$10,000 or less, suggesting dependence on fishing for some of these firms is very small. If the revenue impacts were distributed equally across the active firms (i.e., those business entities who vessel or vessels landed summer flounder between 2012 and 2014), the proposed specifications would result in a \$11,877-decrease per firm in 2016 compared to 2015.

The 2016-2018 proposed scup commercial quotas and recreational harvest limits under the proposed alternative are lower than the quotas implemented in 2015; however, they are higher than the 2014 commercial and recreational landings. Unless market conditions change substantially in coming years, it is expected that commercial and recreational landings will likely be close to the 2014 landings. There is no indication that the market environment for commercially and recreationally caught scup will change considerably in fishing years 2016-2018. Therefore, there are no expected negative impacts from the proposed scup quotas, even though they are lower than those of the previous year.

The 2016-2017 proposed black sea bass commercial quotas are increases from 2015. Relative to the status quo catch levels, the proposed black sea bass quotas could result in slightly positive impacts for the commercial fishery. The status quo specifications would result in a \$0.1-million increase, in revenue, fleet-wide, for the commercial black sea bass fishery, or \$134 per business entity if distributed equally. The least restrictive alternative (Alternative 4) would result in a \$5.9-million increase in revenues (\$7,930 per business entity, if distributed equally). The proposed commercial quota is approximately 13 percent higher than 2014 landings. Assuming the 2014 ex-vessel price for black sea bass (\$3.24/lb), the proposed commercial quota

represents a potential increase of \$1.5 million in fleet-wide revenues, or approximately \$2,000 per business entity if distributed equally. The proposed alternative has slightly more positive economic impacts than the status quo catch limits and is consistent with the SSC's revised recommendation.

Recreational Fishery Impacts

While the proposed specifications would establish recreational harvest limits for summer flounder, scup, and black sea bass, the management measure details for recreational fisheries will be developed by the Council separately for each fishing year, followed by NMFS rulemaking in the spring of that year. A comprehensive analysis of the impacts associated with the recommended recreational management measures will be provided to NMFS from the Council to support these activities. If recreational landings for these three species are the same in 2016-2018 as in recent years, the recreational harvest limits proposed would likely constrain recreational landings for summer flounder and black sea bass, but not likely for scup. As such, it is likely that more restrictive limits (i.e., lower possession limits, higher minimum size limits, and/or shorter open seasons) will be required for summer flounder and black sea bass. This will likely have some negative economic impacts, particularly for the summer flounder fishery. Increasing the recreational harvest limit for black sea bass would allow the measures to be restricted less than if the status quo recreational harvest limit is maintained, although only slightly. Specific recreational management measures (for all three species) will be determined when more complete data regarding recreational landings are available.

Summary

The Council selected Alternative 1 (preferred) over Alternative 2 (status quo), Alternative 3 (most restrictive), and Alternative 4 (least restrictive) stating that the Alternative 1 measures

were consistent with the advice provided to the Council by its SSC and monitoring committees and would have less negative economic impacts than the most restrictive alternatives. The status quo and least restrictive alternatives (Alternatives 2 and 4, respectively) would have less economic impact than the preferred alternative, but not satisfy the Magnuson-Stevens Act requirements to ensure fish stocks are not subject to overfishing. NMFS agrees with the Council's IRFA analysis and rationale for recommending these catch limits. As such, NMFS is proposing to implement the Council's preferred ABCs, ACLs, ACTs, commercial quotas, and recreational harvest limits, as revised, presented in Table 1 of this proposed rule's preamble.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 4, 2015.

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